

EXHIBIT B

IN THE DISTRICT COURT OF JASPER COUNTY

STATE OF TEXAS

DONALD LEWIS

VS.

KINDER-MORGAN ENERGY
PARTNERS

§
§
§
§
§
§

NO. 32483

COPY
ORIGINAL FILED
MAR 14 2013
KATHY KENT, District Clerk
Jasper County, Texas

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now Donald Lewis, hereinafter called Plaintiff, complaining of Kinder-Morgan Energy Partners, hereinafter called Defendant, and for cause of action respectfully shows the Court as follows:

I.

JURISDICTION

1. This action is brought pursuant to 29 U.S.C. Section 611 et seq. seeking legal and equitable relief as is appropriate against the Defendant employer with respect to age discrimination which has been and continues to be practiced by Defendant against Plaintiff, resulting in lost earnings, liquidated damages, reinstatement, costs of court, and attorneys' fees.

II.

VENUE

2. Venue in Jasper County exists under Section 15.094(2) of the Texas Civil Practice and Remedies Code, because Defendant has an agency and/or representative in Jasper

County, Texas, which is Tennessee Gas & Pipeline Company, LLC, a Kinder-Morgan Company.

III.

PARTIES AND SERVICE

3. Plaintiff Donald Lewis is and has been a resident of the State of Texas for all of his life, and is presently a resident of San Augustine County, Texas.

4. Defendant Kinder-Morgan Energy Partners is a corporation authorized to do business in Jasper County, Texas, and may be served with citation herein upon its registered agent C. T. Corporation System, 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201.

IV.

STATEMENT OF CLAIM

5. Plaintiff was born on August 8, 1954.

6. For some 38 years prior to May 25, 2012, Plaintiff worked for Defendant or for other companies that were merged into Defendant, all as a pipeline patroller.

7. For all of such 38 years, Plaintiff was, and is now, well qualified for the position he held, and has performed his duties at a high level.

8. On May 25, 2012, Defendant terminated Plaintiff's employment.

9. Over the years, Defendant has taken over many pipeline companies by merger and has acquired many more, so that Defendant has many different "branch facilities" where pipeline patrollers are needed. These exist now, not only at numerous locations in the state of Texas, but in other states as well.

10. Plaintiff has learned that, while he was terminated on May 25, 2012, many other employees of Defendant who were much younger than Plaintiff, were kept in Defendant's employment, either at the same location where they had worked, or at other facilities operated by Defendant.

11. The conduct of Defendant, in terminating Plaintiff, who was almost 58 years old, while retaining in its employ numerous employees younger than Plaintiff, when Plaintiff was qualified to handle such duties and such younger employees had far less experience than Plaintiff, constituted a willful violation of 29 U.S.C. Section 623(a), inasmuch as the employment decisions of the Defendant concerning the Plaintiff were based upon the Plaintiff's age. Also, after Plaintiff was terminated, his job was posted as an opening.

12. On November 21, 2012, Plaintiff filed a charge of discrimination because of age against Defendant, such charge being filed with the Houston office of the U.S. Equal Employment Opportunity Commission (EEOC).

13. On December 14, 2012, the U. S. Equal Employment Opportunity Commission issued its "right to sue" letter, which was received by Plaintiff on December 17, 2012.

WHEREFORE, Plaintiff prays that Defendant be cited to appear herein, and that on final hearing hereof, the Court:

1. Award damages to the Plaintiff for the income and benefits of which he has been deprived since May 25, 2012, to the day of the entry of judgment.

2. Award liquidated damages to the Plaintiff on account of the Defendant's willful violations of 29 U.S.C. § 623(a).

3. Order the Defendant Kinder-Morgan Energy Partners, to reinstate the Plaintiff in his employment and restore to him all of the privileges and benefits of his employment.
4. Order that the costs of maintaining this action, including reasonable attorney fees, be awarded to the Plaintiff.
5. Order such other and further relief as this Court may deem just and proper.

Respectfully submitted,

SEALE, STOVER & BISBEY
P.O. Box 480
Jasper, Texas 75951
Telephone No: (409) 384-3463
Fax No: (409) 384-3017
Attorneys for Plaintiff

By: _____

John H. Seale

SBN: 17946000